

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

GEORGE PROBY, JR.,

Plaintiff,

v.

TERRY RUSSELL, et al.,

Defendants.

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No. 4:14-CV-1620-JAR

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's motion for appointment of counsel. The motion will be denied.

There is no constitutional or statutory right to appointed counsel in civil cases. Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322–23 (8th Cir. 1986); Nelson, 728 F.2d at 1005.

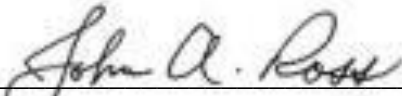
After considering these factors, the Court finds that the appointment of counsel is not warranted at this time. The case is neither factually nor legally complex. Moreover, it is evident that plaintiff is able to present his claims, because the Court has ordered defendants to respond to plaintiff's claims. The Court notes plaintiff's assertion that he has been denied access to the law library, which in turn will lead to his case being dismissed. However, the Court's review of the filings in this matter reveals that plaintiff received a letter from the librarian of the prison on

August 26, 2014, informing him that his “Qualified Legal Claim” ended on August 20, 2014, and that he could not receive legal materials until he has an active “Qualified Legal Claim.” [ECF. NO. 5-2 at 1]. Presumably, the Court’s granting of plaintiff’s motion to proceed in forma pauperis in this matter, as well as in Proby v. Bullock, 4:14-CV-1355-HEA (E.D. Mo.), will constitute “Qualified Legal Claims,” which will allow plaintiff access to legal materials. For the foregoing reasons, the Court finds that the appointment of counsel would be premature at this juncture.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion for appointment [ECF. No. 4] of counsel is **DENIED** without prejudice.

Dated this 10<sup>th</sup> day of October, 2014.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE